



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

201617016

JAN 28 2016

T:EP:RA:TZ

U.I.L. 408.03-00

XXXXXXXXXXXXXX  
XXXXXXXXXXXXXX  
XXXXXXXXXXXXXX

Legend:

Taxpayer A = xxxxxxxxxx

Individual B = xxxxxxxxxx

IRA X = xxxxxxxxxx

Asset D = xxxxxxxxxx

Date 1 = xxxxxxxxxx

Dear xxxxxxxx:

This is in response to your letter dated June 3, 2014, as supplemented by correspondence dated April 2, 2015, and an amended request dated December 5, 2015, in which you request a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code (Code).

The following facts and representations have been submitted under penalty of perjury in support of your request.

Taxpayer A represents that on Date 1, he received a distribution of Asset D from IRA X. Taxpayer A asserts that his failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) of the Code was due to his duties as caregiver for his mother, Individual B, which impaired his ability to accomplish a timely rollover. Taxpayer A further represents that Asset D, the property, he received as a distribution from IRA X, is in his possession and has not been used for any other purpose.

Taxpayer A represents that prior to and during the 60-day rollover period Individual B experienced numerous medical problems including a worsening mental condition. During this time Taxpayer A, was required to assist with her daily medical needs, assist in handling her financial affairs, and assist in locating a living facility for Individual B. Taxpayer A provided copies of Individual B's medical records that verify her medical and mental condition.

Based on the facts and representations, Taxpayer A requests that the Internal Revenue Service (Service) waive the 60 day rollover requirement with respect to the distribution of Asset D.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be in the manner provided under section 72 of the Code.

Section 408(d)(3) of the Code defines and provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) of the Code does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if-

- (i) the entire amount received (including money and any other property) is paid into an IRA for the benefit of such individual not later than the 60<sup>th</sup> day after the day on which the individual received the payment or distribution; or
- (ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60<sup>th</sup> day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) from an IRA which was not included in gross income because of the application of section 408(d)(3).

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d) do not apply to any amount required to be distributed under section 408(a)(6).

Section 408(d)(3)(I) of the Code provides that the Secretary may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) of the Code where the failure to waive such requirement would be against equity and good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occur after December 31, 2001, are eligible for the waiver under section 408(d)(3)(I) of the Code.

Rev. Proc. 2003-16, 2003-4 I.R. B. 359, provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 408(d)(3)(I), the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, or hospitalization, incarceration, restrictions imposed by a foreign country or postal error; (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and documentation submitted by Taxpayer A is consistent with Taxpayer A's assertion that his failure to accomplish a timely rollover was due to his duties as caregiver for Individual B which impaired his ability to accomplish a timely rollover of Asset D.

Therefore, pursuant to Code section 408(d)(3)(I), the Service hereby waives the 60-day rollover requirement with respect to the distribution of Asset D from IRA X. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, are met with respect to such contribution, the contribution of Asset D, in the same form as Taxpayer A received it as a distribution from IRA X, will be considered a rollover contribution within the meaning of section 408(d)(3) of the Code if rolled into an IRA maintained by a tax qualified trustee.

This ruling does not authorize the rollover of amounts that are required to be distributed by section 408(a)(6) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations, which may be applicable thereto.

This letter is directed only to the taxpayer that requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

If you have any questions regarding this letter, please contact xxxxxxxxxxxxxx, at xxxxxxxxxxxx. All correspondence should be addressed to SE:T:EP:RA:T:3.

Sincerely yours,

*for* *Ada Perry*

Carolyn E. Zimmerman, Acting Manager  
Employee Plans Technical Group 3

Enclosures:

Deleted copy of letter ruling  
Notice of Intention to Disclose